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# TOWN OF NEW WINDSOR

## ZONING BOARD OF APPEALS

### Regular Session

Date: MONDAY – JANUARY 24, 2005 – 7:30 P.M.

### AGENDA

7:30 p.m. – Roll Call

Motion to accept minutes of DECEMBER 13, 2004 meetings as written.

### PRELIMINARY MEETINGS:

1. **QUALITY HOMES (05-07)** Request for Interpretation and/or variance for proposed single-family dwelling with two kitchens (300-8 bulk tables) in an R-1 Zone at 10 Wyllys Court (Lot #3) (57-1-2.3)

### TABLED FROM JANUARY 10, 2005 MEETING:

2. **HOFFMANN-WALKER, INC. (for Gita Nadas) (04-76)** Request for 12,375 sq. ft. Minimum Lot Area (Bulk Tables 5-C) and; 50 ft. Minimum Lot Width (Bulk Tables 5-D) for proposed single-family dwelling at 458 Bull Road in and R-1 Zone (52-1-13.33)

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS  
JANUARY 24, 2005

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN  
MICHAEL REIS  
KIMBERLY GANN

ALSO PRESENT: MICHAEL BABCOCK  
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

JENNIFER GALLAGHER  
ZONING BOARD SECRETARY

ABSENT: LEN MC DONALD  
KATHLEEN LOCEY  
STEPHEN RIVERA

REGULAR MEETING

MR. KANE: I'd like to call the January 24, 2005 meeting of the New Windsor Zoning Board of Appeals meeting to order.

APPROVAL OF MINUTES DATED DECEMBER 13, 2004

MR. KANE: Can I have a motion to accept the minutes of December 13?

MR. REIS: So moved.

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MS. GANN: Second it.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. KANE	AYE

PRELIMINARY MEETINGS:

QUALITY HOMES (05-07)

MR. KANE: Request for interpretation and/or variance for proposed single-family dwelling with two kitchens at 10 Wyllys Court.

Mr. Rick Tedaldi appeared before the board for this proposal.

MR. KANE: Just so you know, the Town of New Windsor, unlike some towns holds two meetings, one is a preliminary meeting where you tell us what you want to do, we look at the information and tell you what we need from you to make the appropriate decision on a case. And then by law everything is held in a public hearing, some towns you walk in cold and if you don't have the right stuff, you lose and you can't appeal for another six months. So we decided to have this step so that we make sure we get all the information. So tell us what you want to do. Speak loud enough for the young lady over there. Your name and address, please?

MR. TEDALDI: I'm Rick Tedaldi, 15 Wyllys Court, Rock Tavern. I'm also the builder for the customers. I'm here representing, I guess it's for the Reynolds, there's a great many of them, the five kids and the parents want to stay with them as well. My issue is--

MR. KANE: Is the homeowner here too? Whoever wants to answer questions please come up. State your full name.

MR. REYNOLDS: Edward F. Reynolds, R-E-Y-N-O-L-D-S.

MR. CULLEN: Unfortunately, I'm his father-in-law, John Cullen.

MR. KANE: You want to build a home?

MR. TEDALDI: Right, it's a very sizable home, it's about 5,000 square feet to accommodate them and the five kids and the parents.

MR. CULLEN: And the dog.

MR. KANE: Basically, the way that New Windsor looks at it the building department Mike can correct me if I'm wrong with the two kitchens we'd like to get it on record that this particular home or any home with a two kitchen situation will not ever use it for a two family in an area where it's not zoned for two family. So that's why you're here is to make sure that we get it on record that this is the intent. One of the main things when you're building this do you intend to put in one meter electric meter, gas meter for the house?

MR. TEDALDI: Correct.

MR. KANE: Going from that, let's say that the, like a bedroom you're going to have a bedroom, bath, kitchen or is it just a second kitchen, describe how you're building the house.

MR. TEDALDI: Their side of the house is somewhat substantial, the downstairs of their side has a like a living room, bedroom, kitchen hopefully and a little kitchenette kind of, I'm sorry, dining room next to it.

MR. KANE: You have equal access from upstairs to downstairs? No closed doors, no separate entrances, it's really a one-family house?

MR. TEDALDI: Right, whatever the semantics require hopefully that I'm able to put in a second kitchen so hopefully otherwise they'll be stuck on top of each other. I'm sure you've had the scenario before.

MR. REIS: House is under construction now?

MR. TEDALDI: Framing is almost complete.

MR. REIS: Our concern again is it's not going to be utilized as a two family so easy access, there's no locked doors between the residences?

MR. CULLEN: Except when my grandchildren try to come in. That's off the record.

MS. GANN: No questions.

MR. KANE: What we'll do then is have the board set you up for a public hearing which basically we're going to do the same thing we just did and you're going to state for the record what your intentions are. We're doing this this way then we'll have our vote. Then if it gets approved here you'll be subject to whatever Michael needs you to make sure that it's built in the fashion that it needs to be built. Can I have a motion?

MS. GANN: I'll offer a motion, Mr. Chairman, to grant the public hearing for Quality Homes the request for interpretation for the proposed single family dwelling with two kitchens in an R-1 zone at 10 Wyllys Court.

MR. CULLEN: I think it's number 2.

MR. TEDALDI: I'll try to get you the exact number.

MR. REYNOLDS: Everyone here pronounces it the way that it reads but it's actually Wyllys, they named it after his dog, Wyllys, from what I heard.

MR. REIS: It's 2 Wyllys Court.

MR. BABCOCK: We have the address all at 10, how come?

MR. TEDALDI: Unless there's a mixup with the address.

MRS. REYNOLDS: It's lot number 2.

MR. REYNOLDS: Mailing address is different than lot.

MR. KANE: That changes everything. Whatever he has, I'm sure it's right.

MR. REIS: Second it.

ROLL CALL

MR. REIS            AYE

MS. GANN           AYE

MR. KANE           AYE

MR. KANE: You're all set. Do you have the sheets to give them?

MS. GALLAGHER: Yes.

MR. KANE: We're going to do an interpretation, you really don't need to do anything but come back since the--do you own the property?

MR. REYNOLDS: I do not currently, no.

MR. TEDALDI: I'm the owner right now.

MR. KANE: So we don't need any kind of--

MR. KRIEGER: Yeah, no.

MR. KANE: Okay, we'll see you, just follow the directions basically on this, there's not much you really have to do for the public hearing, getting the list and get the mailings out.

MR. TEDALDI: Within 500 foot.

MR. KANE: Yes, check with the zoning office if you

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have any questions.

MR. REYNOLDS: Do we need to bring the troops back for the planning meeting next meeting?

MR. KANE: You don't have to bring all the troops unless you don't trust them home.

MR. TEDALDI: Thank you very much.



HOFFMAN-WALKER, INC. (FOR GITA NADAS) (04-76)

Jerald Fiedelholtz, Esq. and Mr. Bill Walker appeared before the board for this proposal.

MR. KANE: Request for 12,375 sq. ft. minimum lot area and 50 ft. minimum lot width for proposed single-family dwelling at 458 Bull Road.

MR. FIEDELHOLTZ: Jerald Fiedelholtz, 270 Quassaick Avenue representing Miss Nadas. I wasn't here at the last meeting but I brought some papers with me. What I have is a submission map showing the subdivision back in February, 1987, if you'd like to see this and I also have with me a, this is a lot, it was 1.6 acres and we have a deed here which was deeded to Mrs. Nadas back in December 31, 1993 and I understand that in 2001 the ordinance was passed where you had to have two different lots and you had two years to do it in. However, unfortunately, Miss Nadas never knew this and the first time she heard about this Mr. Walker applied for a permit and it's three months late. However, there's 1.6 acres only 4/10 off so at this time we'd like to ask the board if it would to grant her a building permit and sort of grandfather it in and she herself said she had no knowledge, correct, of the change?

MS. NADAS: Yes.

MR. KANE: The problem that we're coming up with is that you own, I have to look up the Town Law, but I believe you own two adjacent lots right next to each other.

MR. FIEDELHOLTZ: One adjacent lot.

MR. KANE: Two lots right next to each other?

MR. FIEDELHOLTZ: Yes.

MR. KANE: If you do that according to, I don't happen to have my book, but there's a Town Code that says if you own both of those lots and you want to build on it basically you've got to combine the lots.

MR. FIEDELHOLTZ: Well, that's correct what you're saying, unfortunately, if she does that, that means she'll have a 3 acre lot rather than two acres. Well, if it was only one acre, I would agree with you but so close, 1.6 only 4/10 off it's really created a tremendous hardship, it was created by her but she's only three months late. If it was a year late, I wouldn't say anything. And basically she had no knowledge, she didn't do it on purpose and the only time it came up was when Mr. Walker applied for the building permit. So the hardship is number one she didn't know about it, number two, it's going to create a three acre lot, not a one acre lot and that's going to be a real hardship for her, it's an unusual case because we're only 4/10 off, that's all. Do you want to say anything?

MS. NADAS: Yeah, I would. When I realized that the only option was to go for a variance I went to the zoning office and was asking some questions about the problems that might turn up and in order to make me feel a little more confident in the information Myra went and got Frank and Lou from the Building Department and they both came, we had an informal meeting in her office where I asked about the possibilities of me having to have any kinds of changes made to this lot and they assured me that it was very unlikely that I would have to do that. I was very, I was so sure that I felt comfortable not really having the builder go for the variance, I thought it would be a simple process and I had no idea that there would be complications.

MR. FIEDELHOLTZ: Ownership of the lot was 1993 and we have subdivision approved back in 1987 so she's done

everything perfectly well within the town up to this.

MR. KANE: But on the one lot just to, we've got to clear everything up but on the one lot you bought it in 1993, was that an investment to build?

MR. FIEDELHOLTZ: That was given to her by her mother but she owes her money on it but and the other lot was given in the year 2000, is that correct?

MS. NADAS: Yes.

MR. KANE: Now the lot we're talking about to build on when did you receive that lot?

MR. FIEDELHOLTZ: 1993 I gave you a copy of the deed.

MR. KANE: And you had no intentions on building on that lot since then?

MR. FIEDELHOLTZ: Until recently had no intentions of building there?

MS. NADAS: No.

MR. FIEDELHOLTZ: Of course if she had known that the ordinance was going to change she would have done it before just to save the lot, she admits she was very lax but again most people she didn't read the papers.

MS. NADAS: No, I was not aware of where to be looking for this kind of change.

MR. REIS: Just for the record, Mike, this is 80,000 square foot, not two acre?

MR. BABCOCK: Yes.

MR. REIS: Just for the record, Jerry, what you think you need is even less, you actually do need 12,000 feet

but it's not two acres, it's 80,000 square feet.

MR. FIEDELHOLTZ: That's not two acres, correct, so we don't actually need the two acres.

MR. WALKER: Correct, it's less than .4.

MR. KANE: That information came to light that you actually owned the two lots, that's something that I need to think about on how I want to vote on going with that, I don't know about Mike and Kim, but I need to warn you that tonight we only have three members here so all it takes is one no vote for it to go down cause you have to have three positive votes. So being down two members, it makes the odds extremely bad in your favor. To make it fair what I would like to do is continue to have the discussion tabled till the next meeting when we have a full board so at least you can get a fair vote because even if the vote went two to one for it tonight you lose. Do you follow? So I want to at least give you an opportunity of having a fair vote on how, you know, bring it back for everybody here or if your decision is and you want and they're comfortable doing it tonight, we can vote tonight, the decision is yours.

MR. WALKER: Can we take a straw poll first?

MR. KANE: Don't work that way.

MS. L. NADAS: My name is Linda Nadas, I'm her mother. If I had known this I probably wouldn't have given her or sold her this second piece of land because it's like throwing it away.

MR. KANE: It gets real complicated with the land and especially nowadays too a lot of people, you know, looking at how other people are using their land and what they're doing with it and it makes it difficult.

MS. L. NADAS: I want to say something about the previous owners who live on the land adjacent to her lots, they have more than one acre and there's a lot of open land there, some people like this guy has over two acres right next to her and someone else has five acres back there, so anything that was sold was sold more than one acre, so if this is a little bit less than two acres I think it just sort of--

MR. WALKER: Definitely does blend in with the size of the lots across the street it's all open.

MR. KANE: Your name and address?

MR. BERLINGER: My name is Al Berlinger (phonetic), I live at 432 Bull Road and I have approximately 2 1/2 acres, slightly under 2 1/2 acres.

MR. KANE: Do you have any problems whatsoever on if two homes wanted to build on each one of those?

MR. BERLINGER: Can I tell you something?

MR. KANE: Sure, that's what you're here for.

MR. BERLINGER: What I see happening if they're forced to build on this hole parcel or the three acres it's going to put an unfair tax burden on the owner of the house. I know from, you know, shelling out every year how my taxes have risen and I'm very sorry that I have 2.4 something acres, I would rather have a smaller parcel cause I still have the great outdoors, you know, and I built on, bought a house on a lot on both sides of me that was empty, all of a sudden six months after I bought there were people building right on top of me and they have one guy has five acres and he built right on top of me. The other people have 2 1/2 acres and they built right on top of me which makes no sense to me. But I just would like these folks to be able to sell their land as they want to, do what they want with

their land and I can't see the little .4 acres stopping, you know, stopping the building.

MR. FIEDELHOLTZ: 4/10 of an acre.

MR. KANE: No, it's good that you're here as a neighbor.

MR. BERLINGER: It's unfair and like I say a tax burden if they have to sell the whole parcel and build a house on three acres, now you're going to jack their taxes up sky high whoever buys the house.

MR. FIEDELHOLTZ: The other thing the fact that Mr. Walker says he can build a house no problem.

MR. WALKER: Oh, yeah.

MR. FIEDELHOLTZ: No problem as far as building the house on 1.6 acres.

MR. WALKER: No problem, there's no issue with the lot as far as buildability, that's fine.

MR. KANE: Okay, then at this point do you want to keep the item tabled right now until the next hearing and we do the vote or do you want to vote tonight?

MR. FIEDELHOLTZ: What he's saying if you vote tonight and it's a three-one no vote and you're out.

MR. KANE: Six months before you can come back.

MS. NADAS: When is the next meeting?

MR. KANE: We do the second and fourth Mondays of the month so it would be February 14th.

MR. WALKER: You need three for three or you wait for three out of five.

MR. KRIEGER: They need three positive votes and if they have five members then it's three out of five, if they have three members present, it's all three.

MR. KANE: Tonight you'd need to be unanimous, that's the way the law works.

MS. NADAS: I have to decide this?

MR. KANE: Yeah, some things you can't pass on. Want some advice? Table it.

MS. NADAS: That's my inclination.

MR. KANE: Off the record.

(Discussion was held off the record)

MS. NADAS: I don't want to drag everybody else back here, I have no problem coming back, it sounds like a better idea.

MR. FIEDELHOLTZ: February 14th, right?

MR. KANE: Yes, sir.

MR. FIEDELHOLTZ: Thank you very much.

MR. KANE: What we'll do is that if you don't want to, if you can have your neighbors basically don't even they don't have to come but if they can put something in writing with the name and address similar to what this gentleman said tonight there's a lot of weight.

MR. BERLINGER: I can come back.

MR. KANE: There's a lot of weight to that so okay, I hate to delay you more but I think it's the fairest

thing all the way around.

MR. FIEDELHOLTZ: Thank you very much.

MR. KANE: I need a motion to table this, further table the application to February 14.

MR. REIS: Make a motion that we table Hoffman-Walker for the first meeting in February, February 14, 2005.

MS. GANN: Second it.

ROLL CALL

MR. REIS            AYE

MS. GANN           AYE

MR. KANE           AYE

MR. KANE: Motion to adjourn.

MR. REIS: So moved.

MS. GANN: Second it.

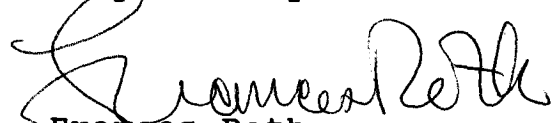
ROLL CALL

MR. REIS            AYE

MS. GANN           AYE

MR. KANE           AYE

Respectfully Submitted By:

  
Frances Roth  
Stenographer

1/26/05